

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UA LOCAL 342 JOINT LABOR-	)	
MANAGEMENT COMMITTEE, et	)	
al.,	)	No. C 04-2531 SBA (BZ)
	)	
Plaintiffs,	)	<b>REPORT AND RECOMMENDATION</b>
	)	<b>TO DENY PLAINTIFF'S MOTION</b>
v.	)	<b>FOR DEFAULT JUDGMENT AS</b>
	)	<b>MOOT</b>
AIRTEKS MECHANICAL	)	
SERVICES, INC.,	)	
	)	
Defendant.	)	
_____	)	

On November 17, 2004, the Honorable Sandra Brown Armstrong referred plaintiffs' motion for entry of default judgment to me for a report and recommendation. I held a hearing on plaintiffs' motion on December 15, 2004. At the hearing, plaintiffs could not explain why the amount of damages requested in their motion differed from the amount sought in their complaint, nor could they otherwise prove their damages. I granted plaintiffs one week to elect whether they wished to amend and reserve their complaint or to file supplemental papers in support of their motion.

1 Plaintiffs chose to amend their complaint, which  
2 effectively  
3 vacates the entry of default. See William Schwarzer et  
4 al., Federal Civil Procedure Before Trial, ¶¶6:137, 8:390  
5 (2004). I therefore **RECOMMEND** that their motion for entry  
6 default judgment be denied as moot.

7 Dated: January 3, 2005

8 /S/ Bernard Zimmerman

9 Bernard Zimmerman  
United States Magistrate Judge

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